

Exhibit 6

3505-7

REPORT OF PROFESSOR DAVID M. CUTLER

In Re: Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation

United States District Court Northern District of California

Case No. 19-md-02913-WHO

Bellwether Government Entities

January 28, 2022

HIGHLY CONFIDENTIAL

without JUUL's novel youth-appealing product design and marketing strategy,⁷² youth e-cigarette use would have stayed constant if not fallen post-2017. My September 2021 Expert Report showed that this finding is robust to use of alternative methodologies for estimating "but for" vaping rates: Methods 1 and 2 show the same finding as Method 3, that vaping would have changed minimally between 2017 and 2019 but for JUUL.⁷³ My findings here with respect to effects of school proximity on stores' JUUL sales show that, in the Bellwethers as in the U.S. overall, skyrocketing JUUL sales in 2017-19 were substantially fueled by youth JUUL use.⁷⁴

IV. Causal Impact of Altria

39. My September 2021 Report examined the role of Altria in contributing to the youth vaping epidemic by examining two sales efforts it conducted for JUUL after investing in it: the "Blitz" sales campaign undertaken in March through May of 2019, and a program of "ITP resets" that upgraded the space in retail stores where "innovative tobacco products" (like e-cigarettes) are displayed and moved JUUL into a prominent place in the ITP space.⁷⁵ As discussed in that Report, there were other contributions of Altria to JUUL sales, including help with its PMTA application, but these were two major programs Altria undertook for JUUL for which its effects on sales can be estimated empirically.

40. To examine the role of these two Altria programs in increasing sales in the Bellwether Areas, I implement the same analyses conducted in my September 2021 Report with some adaptations to the Bellwether context. With respect to the Blitz campaign, Altria visited a total of 1,122 of the 2,266 stores in and around the Bellwether Areas, and the regression model can be

⁷² Cutler September 2021 Expert Report, Section VI.B.

⁷³ Cutler September 2021 Expert Report, Section VI.A, especially Exhibit 24.

⁷⁴ Cutler September 2021 Expert Report, Section II.

⁷⁵ See the Cutler September 2021 Expert Report, Section VII.B.

estimated separately for each Bellwether.⁷⁶ The ITP reset program was narrower in scope, with Altria resetting the ITP space of 154 stores in the Bellwether Areas between January and August 2019.⁷⁷ With the relatively small number of resets, especially in some Areas,⁷⁸ I use a pooled model to estimate effects of the ITP program on sales in the Bellwether Areas taken together.

A. Altria's Blitz Campaign

41. Exhibit 11 presents results for the Blitz-campaign analysis.⁷⁹ The points in each panel of the Exhibit represent regression estimates of the effect of an Altria Blitz visit on a store's sales relative to sales of an otherwise similar store that was not visited by Altria, i.e., they show extra sales that resulted from an Altria Blitz visit, above and beyond what would have been expected for the store in the time period. Effects on sales are measured at different intervals relative to when the Blitz visit took place: in the same week as the visit, the week after the visit, two weeks after the visit, or three or more weeks after. Again the "whiskers" extending above and below the point represent 95% confidence intervals associated with the estimate.

42. In all Bellwether Areas, the results show positive and statistically significant effects of Blitz visits on stores' weekly sales for total JUUL pods and mint pods specifically. For example, for King County, Washington, the regression results show that, in the week of the Blitz visit and two weeks thereafter, a store's total weekly sales of JUUL pods were 25 to 44 pods higher than they would have been, given the store's characteristics and broad-based changes in JUUL sales taking place at the time. In the third week and thereafter, the total pod sales of a visited store were 45 JUUL pods higher than they would have been, had the store not been visited. Most of

⁷⁶ Exhibit A5.1 in Appendix 5 shows the distribution of Blitz visits across the Bellwether Areas.

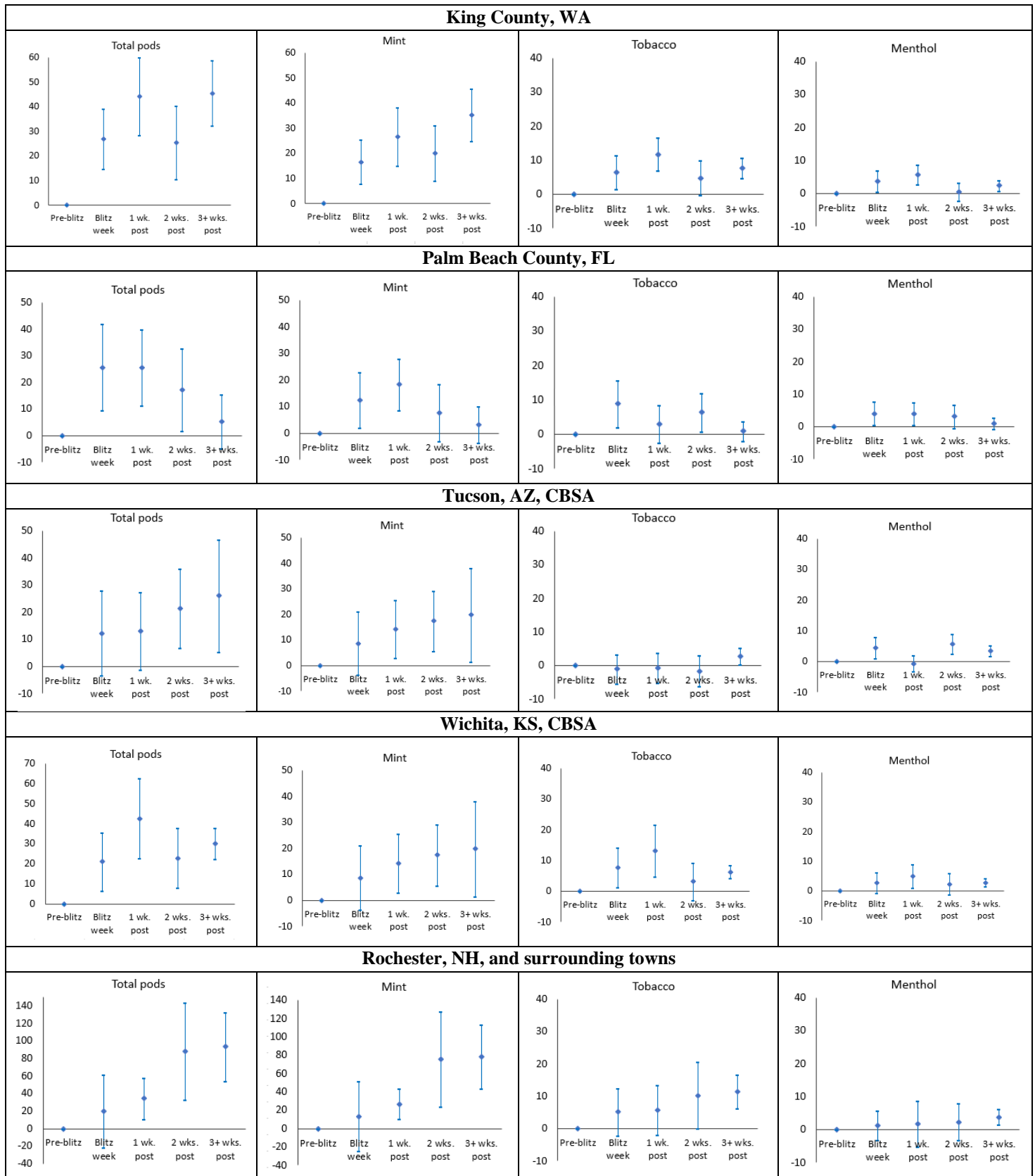
⁷⁷ See the Cutler September 2021 Expert Report, ¶ 23.

⁷⁸ Exhibit A5.3 in Appendix 5 shows the distribution of ITP resets across the Bellwether Areas.

⁷⁹ Details of the regression analysis are discussed in Appendix 5.

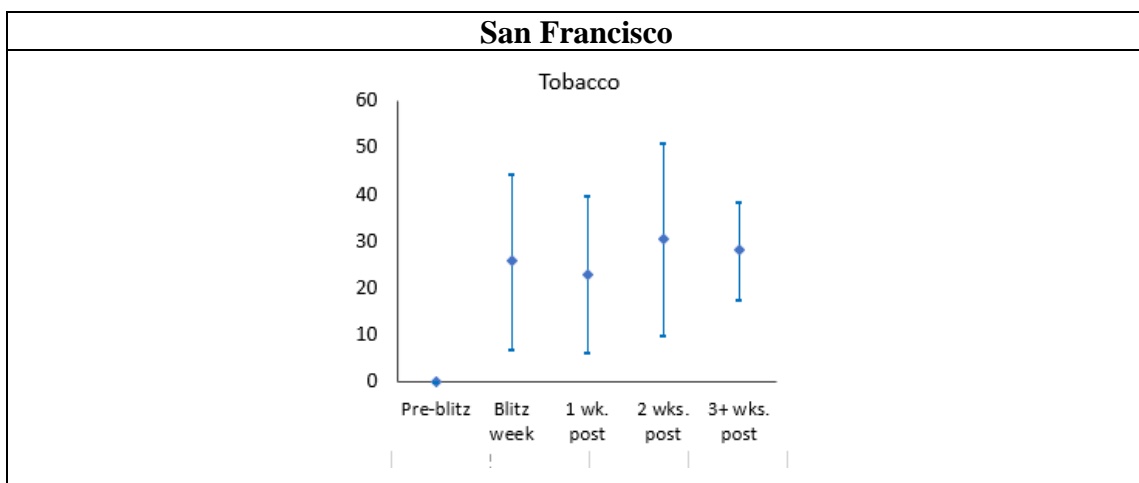
the effect came from increased sales of mint pods; sales of tobacco pods increased significantly, but by a smaller number of pods than mint, and effects for menthol pods were smaller still.

While patterns differ somewhat across the Bellwether Areas, in all cases they show significant increases in total pod sales and in sales of mint pods in the weeks after a Blitz visit. In four of the five Bellwethers shown in Exhibit 12, effects of Blitz visits on sales' sales persisted after the third-week post-Blitz; only in Palm Beach County did sales effects become statistically insignificant in the third week and after.

Exhibit 12: Effects of Altria Blitz Visits on Weekly JUUL Pod Sales⁸⁰

43. Exhibit 13 shows effects of the Blitz campaign on San Francisco stores. As the Blitz campaign took place after San Francisco banned sales of all flavored tobacco products, including menthol products,⁸¹ I estimate the regression model for San Francisco for sales of tobacco pods only. Here too, Altria's Blitz sales visits had a significant positive effect on sales: Stores that were visited during the Blitz campaign saw pod sales rise by about 25-30 pods over what they otherwise would have been, with the significant effect persisting after Week 3.

Exhibit 13: Effects of Altria Blitz Visits on Weekly JUUL Tobacco Pod Sales⁸²



44. In my September 2021 Expert Report, I showed that the estimated effects did not result from stores that had Blitz visits pulling sales away from other stores, as might happen if, for example, JUUL buyers changed which stores they bought from having observed the “Blitzed” stores to be better stocked.⁸³ Rather, Altria Blitz visits significantly increased aggregate sales of JUUL pods within given zip codes, indicating that positive and significant store-level results are

⁸⁰ Appendix 5 provides details.

⁸¹ As mentioned above, stores' compliance with the ban was high after compliance inspections phased in at the end of 2018. See ¶ 11.

⁸² Appendix 5 provides details.

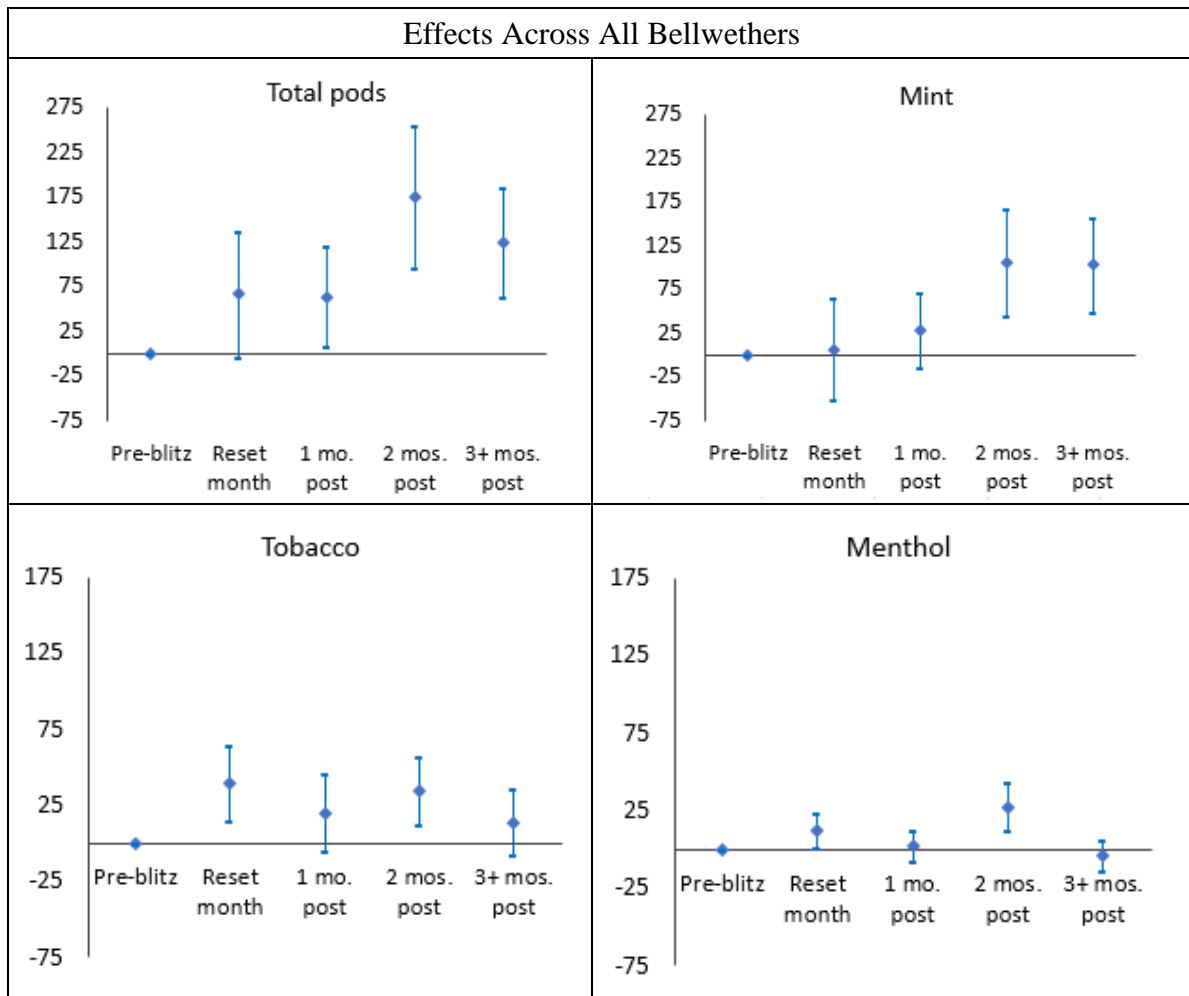
⁸³ See Cutler September 2021 Expert Report, Appendix 12.

not explained by sales shifts within areas.⁸⁴ Thus, the results represented in Exhibits 12 and 13 show Altria's Blitz visits to have causally increased JUUL sales in the Bellwether Areas.

B. Altria's ITP Reset Program

45. Exhibit 14 shows results of the regression analysis examining effects of Altria's ITP reset program on stores' sales. In line with my findings for the U.S. as a whole, ITP resets in the Bellwether Areas increased stores' sales relative to those of similar stores in the same time period, with mint pod sales contributing most of the gain. As the Exhibit shows, after three months the sales of a reset store were higher by about 125 pods per month, relative to those of an otherwise similar store without an ITP reset; about 100 of the extra pods were mint.

⁸⁴ Cutler September 2021 Expert Report, Appendix 12, ¶¶ 6-8 and Exhibit A12.3.

Exhibit 14: Effects of Altria ITP Resets on Monthly JUUL Pod Sales⁸⁵**Conclusion**

46. Thus, just as I found for the U.S. as a whole in my September 2021 Expert Report,⁸⁶ the Blitz Campaign carried out by Altria’s “best-in-class” sales force increased stores’ JUUL sales in the Bellwether Areas by significantly more than would have been expected for otherwise similar stores over the same time period. Similarly, Altria’s ITP reset program significantly increased sales of stores in the Bellwether Areas, relative to otherwise similar stores in the same area over

⁸⁵ Appendix 5 provides details.

⁸⁶ Cutler September 2021 Expert Report, Section VII.

schools included in the distance measure. All other aspects of the regression specification are as before.¹³⁷

8. Results are shown in Exhibit A4.3 (including all schools with grades in the 6-12 range in the distance measure) and A4.4 (excluding K-8 schools). For flavored pods and flavored and mint pods taken together, estimated effects of distance are negative and statistically significant, i.e., as a store's distance to the closest school increases, its pod sales decrease, holding constant other factors expected to affect store sales. Results for mint pods alone are also negative and statistically significant, although at a weaker 10% level only. In contrast, there are no significant effects of distance on sales of tobacco or menthol pods, separately or together. Thus, the results the same as those of the main specification: proximity to schools is associated with significantly higher sales of flavored and mint pods, consistent with a significant effect of youth demand on JUUL sales growth.

¹³⁷ Note that here, as above, stores with sales in the top 1% of the distribution or that are located more than 6 miles from the closest school are excluded from the sample to avoid undue influence of outliers.